

1 **FEDERAL ELECTION COMMISSION**  
2  
3 **FIRST GENERAL COUNSEL'S REPORT**  
4

5 Audit Referral: AR 17-03  
6 DATE REFERRED: 2/23/2017  
7 DATE OF NOTIFICATION: 2/23/2017  
8 DATE OF LAST RESPONSE: 5/22/2017  
9 DATE ACTIVATED: 5/22/2017

10  
11 ELECTION CYCLE: 2012  
12 EXPIRATION OF SOL: 1/19/2017-11/2/2017  
13

14 **SOURCE:** Audit Referral

15  
16 **RESPONDENTS:** Conservative Campaign Committee and Kelly  
17 Lawler in her official capacity as treasurer  
18

19 **INTERNAL REPORTS CHECKED:** Audit Documents  
20 Disclosure Reports  
21

22 **FEDERAL AGENCIES CHECKED:** None  
23

24 **RELEVANT STATUTES** 52 U.S.C. § 30104(b)(4)(H)(iii)  
25 52 U.S.C. § 30104(g)  
26 52 U.S.C. § 30104(b)(8)  
27

28 **I. INTRODUCTION**  
29

30 This matter arises from the Commission's audit of the 2012 election cycle activity of the  
31 Conservative Campaign Committee and Kelly Lawler in her official capacity as treasurer (the  
32 "Committee").<sup>1</sup> On October 24, 2016, the Commission approved the Final Audit Report and the  
33 Audit Division referred one finding to the Office of General Counsel ("OGC") for possible  
34 enforcement action: the Committee's failure to file 24-Hour and 48-Hour Reports for  
35 independent expenditures ("IEs") totaling \$286,286.

---

<sup>1</sup> See Attach. 1, Final Audit Report.



1 reports, known as 24-Hour Reports, must be filed within 24 hours after each time it makes or  
2 contracts to make IEs aggregating an additional \$1,000.<sup>6</sup>

3 A political committee that makes or contracts to make IEs aggregating \$10,000 or more  
4 for an election in any calendar year, up to and including the 20th day before an election, must  
5 report these expenditures within 48 hours.<sup>7</sup> These reports, known as 48-Hour Reports, must be  
6 filed by the end of the second day "following the date on which a communication that constitutes  
7 an independent expenditure is publicly distributed or otherwise publicly disseminated."<sup>8</sup>

8 During the 2012 election cycle, the Committee disclosed \$1,339,170 as IEs on its reports,  
9 but failed to file 24-Hour or 48-Hour Reports for \$12,302 of those IEs in a timely manner and  
10 did not file any reports for IEs totaling \$3,774.<sup>9</sup> The Committee also reported \$294,036 of  
11 apparent IEs as operating expenditures or other disbursements on its quarterly reports, but failed  
12 to file 24-Hour or 48-Hour Reports for \$270,210.<sup>10</sup> The apparent IEs reviewed by the Audit  
13 Division were for television and radio advertisements and fundraising blast emails that contained  
14 language expressly advocating the election or defeat of a clearly identified federal candidate.  
15 The television and radio advertisements included statements such as "Defeat Obama Tele-thon,"  
16 "Defeat Obama Radio-thon," and "Rebuild America, Defeat Obama Tour." The fundraising  
17 blast emails included links to the television and radio advertisements and express advocacy

---

<sup>6</sup> 11 C.F.R. § 104.4(c).

<sup>7</sup> 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

<sup>8</sup> 11 C.F.R. § 104.4(b)(2).

<sup>9</sup> Attach. 1, Final Audit Report at 9.

<sup>10</sup> *Id.*

1 phrases in the text of the emails such as “Defeat Barack Obama” and “We’re going to stop  
2 Barack Obama from getting Wisconsin’s 10 Electoral Votes.”<sup>11</sup>

3 The Interim Audit Report recommended that the Committee provide documentation to  
4 show that the 24-Hour or 48-Hour Reports for the \$270,210 in apparent IEs were timely filed or  
5 not required.<sup>12</sup> The Committee did not submit a response to the Interim Audit Report. In  
6 response to the Draft Final Audit Report, the Committee stated that many of the communications  
7 that the Audit Division reviewed and identified as apparent IEs were actually fundraising  
8 communications that were not reportable as IEs, but the Audit Division concluded that the  
9 Committee did not support this assertion.<sup>13</sup>

10 The Commission approved a finding that the Committee did not file 24-Hour or 48-Hour  
11 Reports for \$3,774 in apparent IEs and \$270,210 in IEs that were reported as operating  
12 expenditures or other disbursements, and untimely filed 24-Hour or 48-Hour Reports for \$12,302  
13 in IEs reported on Schedule E.<sup>14</sup> The Audit Division referred these findings to OGC for possible  
14 enforcement action.

15 In its Response to the Notice of Referral,<sup>15</sup> the Committee asserted that the total IEs the  
16 Committee failed to disclose in 24-Hour or 48-Hour Reports is actually \$71,441.80.<sup>16</sup> The  
17 Committee also contends that two of its communications did not trigger the reporting

---

<sup>11</sup> *Id.* at 7.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 8.

<sup>14</sup> *Id.*

<sup>15</sup> Notice of Referral, AR 17-03 (Feb. 23, 2017).

<sup>16</sup> *See* Conservative Campaign Committee Resp. at 2 (May 22, 2017).

18012574440801

1 requirement because they were less than the \$1,000 threshold.<sup>17</sup> The Committee also suggests  
2 that any reporting issue is *de minimis* because the approximately \$11,197 in IEs reported on 24-  
3 Hour Reports were filed between two and six days late and suggests, but does not describe,  
4 remedial measures were put in place to prevent future violations.<sup>18</sup> The Committee reiterated its  
5 argument that the bulk of the communications identified in the Final Audit Report were not  
6 “public communications” but were instead fundraising solicitations sent to its prior donors.<sup>19</sup>  
7 However, a review of these communications confirms that they should have been reported as  
8 independent expenditures. Accordingly, we recommend that the Commission find reason to  
9 believe that the Committee violated 52 U.S.C. § 30104(b)(4)(H)(iii) and (g) by failing to file 24-  
10 Hour and 48-Hour Reports for \$286,286 (\$3,744 + \$12,302 + \$270,210) in IEs.

11  
12  
13  
14  
15  
16  
17  
18  
19  

---

<sup>17</sup> *Id.* at 2-3. A review of the documents provided by the Committee supports the Audit Division finding that these expenditures triggered the 24-Hour or 48-Hour reporting requirement.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 1-2. The Committee also argued that many its unreported expenditures were in support of Wisconsin Governor Scott Walker’s recall, and thus did not require reporting. However, as discussed in the Final Audit Report, those communications contained language expressly advocating the defeat of President Barack Obama in the text of the fundraising blast emails.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**IV. RECOMMENDATIONS**

1. Open a MUR in AR 17-03;
2. Find reason to believe that Conservative Campaign Committee and Kelly Lawler in her official capacity as treasurer violated § 30104(b)(4)(H)(iii) and(g);
3. Approve the attached Factual and Legal Analysis;
4. Authorize pre-probable cause conciliation with Conservative Campaign Committee and Kelly Lawler in her official capacity as treasurer;
5. Approve the attached proposed conciliation agreement; and
6. Approve the appropriate letters.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

8/16/17  
Date

Lisa J. Stevenson  
Acting General Counsel

  
Kathleen M. Guith  
Associate General Counsel for Enforcement

  
Lynn Y. Tran  
Assistant General Counsel

  
Derek H. Ross  
Attorney

Attachments:

1. Final Audit Report
- 2.
3. Factual & Legal Analysis

1000444440001



# Final Audit Report of the Commission on the Conservative Campaign Committee

(April 5, 2011 - December 31, 2012)

## Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.<sup>1</sup> The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

## Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

## About the Committee (p. 2)

The Conservative Campaign Committee is a non-connected committee headquartered in Willows, California. For more information, see the chart on Committee Organization, p. 2.

## Financial Activity (p. 2)

• <b>Receipts</b>	
○ Contributions from Individuals	\$ 3,871,317
○ Other Receipts	28,994
<b>Total Receipts</b>	<b>\$ 3,900,311</b>
• <b>Disbursements</b>	
○ Operating Expenditures	\$ 2,225,531
○ Independent Expenditures	1,633,206
○ Refund of Contributions	20,110
○ Other Disbursements	6,512
<b>Total Disbursements</b>	<b>\$ 3,885,359</b>

## Commission Findings (p. 3)

- Reporting of Apparent Independent Expenditures (Finding 1)
- Recordkeeping for Communications (Finding 2)

<sup>1</sup> 52 U.S.C. §30111(b).

# **Final Audit Report of the Commission on the Conservative Campaign Committee**

---

(April 5, 2011 - December 31, 2012)



18004444000115

# Table of Contents

	<b>Page</b>
<b>Part I. Background</b>	
Authority for Audit	1
Scope of Audit	1
Audit Hearing	1
<b>Part II. Overview of Committee</b>	
Committee Organization	2
Overview of Financial Activity	2
<b>Part III. Summaries</b>	
Commission Findings	3
<b>Part IV. Commission Findings</b>	
Finding 1. Reporting of Apparent Independent Expenditures	5
Finding 2. Recordkeeping for Communications	10

1880444754216

# Part I Background

## Authority for Audit

This report is based on an audit of the Conservative Campaign Committee<sup>2</sup> (CCC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

## Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the consistency between reported figures and bank records;
2. the disclosure of individual contributors' occupation and name of employer;
3. the disclosure of independent expenditures;
4. the disclosure of debts and obligations pertaining to independent expenditures;
5. the completeness of disbursement records; and
6. other committee operations necessary to the review.

## Audit Hearing

CCC declined the opportunity for a hearing before the Commission on the matters presented in this report.

---

<sup>2</sup> On December 18, 2012, the Commission received a Statement of Organization from the Campaign to Defeat Barack Obama officially changing its name to the Conservative Campaign Committee.

1100474154117

## Part II

### Overview of Committee

#### Committee Organization

<b>Important Dates</b>	
• Date of Registration	April 11, 2011
• Audit Coverage	April 5, 2011 <sup>3</sup> - December 31, 2012
<b>Headquarters</b>	
Willows, California	
<b>Bank Information</b>	
• Bank Depositories	One
• Bank Accounts	One Checking and One Savings
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Kelly Lawler
• Treasurer During Period Covered by Audit	Kelly Lawler
<b>Management Information</b>	
• Attended Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

#### Overview of Financial Activity (Audited Amounts<sup>4</sup>)

<b>Cash-on-hand @ April 5, 2011</b>	<b>\$ 0</b>
<b>Receipts</b>	
○ Contributions from Individuals	3,871,317
○ Other Receipts	28,994
<b>Total Receipts</b>	<b>\$ 3,900,311</b>
<b>Disbursements</b>	
○ Operating Expenditures	2,225,531
○ Independent Expenditures	1,633,206 <sup>5</sup>
○ Refund of Contributions	20,110
○ Other Disbursements	6,512
<b>Total Disbursements</b>	<b>\$ 3,885,359</b>
<b>Cash-on-hand @ December 31, 2012</b>	<b>\$ 14,952</b>

<sup>3</sup> CCC opened its first bank account April 5, 2011.

<sup>4</sup> Audited amounts may differ from reported amounts; however, the differences were not material enough to result in a misstatement of financial activity finding.

<sup>5</sup> This amount, as well as the amount for operating expenditures, has been revised as a result of the Commission's final consideration of Finding 1.

## Part III

### Summaries

#### Commission Findings

##### **Finding 1. Reporting of Apparent Independent Expenditures**

During audit fieldwork, the Audit staff ascertained that CCC disclosed independent expenditures totaling \$1,339,170 on Schedule E (Itemized Independent Expenditures). Of these expenditures, CCC did not properly disclose independent expenditures totaling \$12,168 that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E, as well as reporting as debt on Schedule D (Debts and Obligations). Additionally, the Audit staff identified disbursements disclosed as operating expenditures on Schedule B, Line 21b (Operating Expenditures) totaling \$294,036 which appear to be independent expenditures.

Of the \$1,339,170 independent expenditures reported on Schedule E, CCC did not file 24-hour reports for \$12,302 of them in a timely manner and did not file any 24-hour reports for \$3,774 of them. Additionally, for the \$294,036 disclosed as operating expenditures which appeared to be independent expenditures, CCC did not file 24/48-hour reports totaling \$270,210.

CCC did not submit a response to the Interim Audit Report. In response to the Draft Final Audit Report, CCC addressed the items in question by stating they were for fundraising purposes, not electioneering, and therefore did not require reporting as independent expenditures. CCC did not address the expenditures totaling \$12,168 that should have been reported as memo entries on Schedule E and debt on Schedule D. For the 24/48-hour reports, CCC stated its goal is to comply and timely file; and it has tightened procedures to ensure that future items are timely filed. Absent evidence that the expenditures in question did not require reporting as independent expenditures and did not require 24/48-hour reports, the Audit staff considered these expenditures to be independent expenditures.

The Commission approved a finding that CCC did not properly disclose apparent independent expenditures totaling \$294,036 on Schedule E and a finding that CCC did not properly disclose seven independent expenditures totaling \$12,168 that were publicly disseminated prior to payment as memo entries on Schedule E and as debt on Schedule D.

The Commission also approved a finding that CCC untimely filed 24-hour reports for independent expenditures totaling \$12,302 and approved a finding that CCC failed to file 24/48-hour reports for independent expenditures totaling \$3,774 and \$270,210 for apparent independent expenditures.

(For more detail, see p. 5.)

**Finding 2. Recordkeeping for Communications**

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information reported on the disclosure reports. CCC reported 134 expenditures totaling \$357,998 on Schedule B, Line 21b (Operating Expenditures) with purposes such as “fundraising blast emails”, “media consulting and commissions” and “online advertising”. Documentation that was provided by CCC was insufficient to make a determination pertaining to the purpose for these disbursements and verification as an operating expense.

CCC did not submit a response to the Interim Audit Report. In response to the Draft Final Audit Report, CCC stated it has made improvements to its recordkeeping procedures. Absent further documentation as recommended, the Audit staff considered the documentation provided to be insufficient.

The Commission approved a finding that CCC did not provide the necessary records or information upon which the reported operating expenditures totaling \$357,998 may be verified or explained.

(For more detail, see p. 10.)

180474740801

## Part IV

# Commission Findings

### **Finding 1. Reporting of Apparent Independent Expenditures**

#### **Summary**

During audit fieldwork, the Audit staff ascertained that CCC disclosed independent expenditures totaling \$1,339,170 on Schedule E (Itemized Independent Expenditures). Of these expenditures, CCC did not properly disclose independent expenditures totaling \$12,168 that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E, as well as reporting as debt on Schedule D (Debts and Obligations). Additionally, the Audit staff identified disbursements disclosed as operating expenditures on Schedule B, Line 21b (Operating Expenditures) totaling \$294,036 which appear to be independent expenditures.

Of the \$1,339,170 independent expenditures reported on Schedule E, CCC did not file 24-hour reports for \$12,302 of them in a timely manner and did not file any 24-hour reports for \$3,774 of them. Additionally, for the \$294,036 disclosed as operating expenditures which appeared to be independent expenditures, CCC did not file 24/48-hour reports totaling \$270,210.

CCC did not submit a response to the Interim Audit Report. In response to the Draft Final Audit Report, CCC addressed the items in question by stating they were for fundraising purposes, not electioneering, and therefore did not require reporting as independent expenditures. CCC did not address the expenditures totaling \$12,168 that should have been reported as memo entries on Schedule E and debt on Schedule D. For the 24/48-hour reports, CCC stated its goal is to comply and timely file; and it has tightened procedures to ensure that future items are timely filed. Absent evidence that the expenditures in question did not require reporting as independent expenditures and did not require 24/48-hour reports, the Audit staff considered these expenditures to be independent expenditures.

The Commission approved a finding that CCC did not properly disclose apparent independent expenditures totaling \$294,036 on Schedule E and a finding that CCC did not properly disclose seven independent expenditures totaling \$12,168 that were publicly disseminated prior to payment as memo entries on Schedule E and as debt on Schedule D.

The Commission also approved a finding that CCC untimely filed 24-hour reports for independent expenditures totaling \$12,302 and approved a finding that CCC failed to file 24/48-hour reports for independent expenditures totaling \$3,774 and \$270,210 for apparent independent expenditures.



expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$10,000. 11 CFR §§104.4(f) and 104.5(g)(1).

**E. Formal Requirements Regarding Reports and Statements.** Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).

## **Facts and Analysis**

### **A. Reporting of Apparent Independent Expenditures**

#### **1. Facts**

During audit fieldwork, the Audit staff reviewed disbursements to ensure that independent expenditures were disclosed correctly on Schedule E, including disclosing the correct memo and debt entry, if required. The Audit staff noted that CCC disclosed independent expenditures totaling \$1,339,170 on Schedule E; however, CCC made additional apparent media-related expenditures totaling \$294,036 and disclosed them as operating expenditures. A review and analysis of these expenditures revealed the following:

#### **a) Apparent Independent Expenditures Reported as Operating Expenditures (Copy of Communication Made Available)**

CCC made 39 apparent independent expenditures totaling \$294,036 for which it provided invoices, television and radio advertisements, fundraising blast emails, and additional supporting documents to the Audit staff. All of these communications totaling \$294,036 contained language expressly advocating the election or defeat of a clearly identified candidate, as defined under 11 CFR §100.22(a). The television and radio advertisements included statements such as: "Defeat Obama Tele-thon", "Defeat Obama Radio-thon" and "Rebuild America, Defeat Obama Tour".

The fundraising blast emails included links to television and radio advertisements, as well as express advocacy language within the body of the email. The emails included express advocacy phrases such as: "Defeat Barack Obama" and "We're going to stop Barack Obama from getting Wisconsin's 10 Electoral Votes".

#### **b) Independent Expenditures Reported on Schedule E (Independent Expenditure Schedule) – Disclosure Errors**

CCC made 240 independent expenditures totaling \$1,339,170 which were reported on Schedule E. CCC did not properly disclose seven independent expenditures totaling \$12,168 that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E. CCC should have disclosed memo entries on Schedule E when the communications were disseminated in addition to the reporting at the time of payment. This amount should also be reported as a corresponding debt on Schedule D (Debts and Obligations).

## **2. Interim Audit Report & Audit Division Recommendation**

At the exit conference, the Audit staff presented the schedule of apparent disclosure errors for independent expenditures. In response to the exit conference, CCC provided additional documentation including copies of seven major fundraising blast emails totaling \$100,374. Upon review, the Audit staff determined these email communications included express advocacy, but were not properly reported as independent expenditures. The cost of these fundraising emails is part of the \$294,036 in section A.1(a) above.

The Interim Audit Report recommended that CCC provide documentation and evidence that apparent independent expenditures totaling \$294,036 did not require reporting as independent expenditures. Evidence should have included invoices with the corresponding communications and, where applicable, CCC's payment information. Absent such evidence, CCC should have amended its reports to disclose these disbursements as independent expenditures on Schedule E and submitted revised procedures for reporting independent expenditures. The Interim Audit Report further recommended that CCC amend its reports to include the reporting of \$12,168 in independent expenditures as memo entries based on the date in which the materials were disseminated and report this amount as a corresponding debt on Schedule D.

## **3. Committee Response to Interim Audit Report**

CCC did not submit a response to the Interim Audit Report, nor were amended disclosure reports filed. Absent evidence that the expenditures in question did not require reporting as independent expenditures, the Audit staff considered these expenditures to be independent expenditures.

## **4. Draft Final Audit Report**

The Draft Final Audit Report noted that no documentation or evidence was provided by CCC to substantiate that apparent independent expenditures totaling \$294,036 did not require reporting as independent expenditures. In addition, CCC did not amend its reports to include \$12,168 in independent expenditures as memo entries based on the date in which the materials were disseminated and report this amount as a corresponding debt on Schedule D.

## **5. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, CCC addressed the items in question by stating they were for fundraising purposes, not electioneering, and therefore did not require reporting as independent expenditures. CCC did not file amended disclosure reports as recommended. Also, CCC did not address the expenditures totaling \$12,168 that should have been reported as memo entries on Schedule E and debt on Schedule D. Absent evidence that the expenditures in question did not require reporting as independent expenditures, the Audit staff maintained that these expenditures were independent expenditures.

## **Commission Conclusion**

On October 24, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CCC did not properly disclose apparent independent



### **3. Committee Response to Interim Audit Report**

CCC did not submit a response to the Interim Audit Report. Absent evidence that the expenditures in question did not require reporting as independent expenditures and did not require 24/48-hour reports, the Audit staff considered these expenditures above as requiring 24/48-hour reports.

### **4. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that CCC did not provide documentation to support that the 24/48-hour reports totaling \$286,286 (\$3,774+ \$12,302 + \$270,210) were timely filed or that the filing of these reports was not required.

### **5. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, CCC stated its goal is to comply and timely file; and it has tightened procedures to ensure that future items are timely filed. In addition, CCC stated it has discussed how to improve the communication of the consultants' work with its treasurer. CCC did not specifically address the apparent independent expenditures totaling \$270,210.

### **Commission Conclusion**

On October 24, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CCC untimely filed 24-hour reports for independent expenditures totaling \$12,302 and failed to file 24/48-hour reports for independent expenditures totaling \$3,774 and \$270,210 for apparent independent expenditures.

The Commission approved the Audit staff's recommendation.

## **Finding 2. Recordkeeping for Communications**

### **Summary**

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information reported on the disclosure reports. CCC reported 134 expenditures totaling \$357,998 on Schedule B, Line 21b (Operating Expenditures) with purposes such as "fundraising blast emails", "media consulting and commissions" and "online advertising". Documentation that was provided by CCC was insufficient to make a determination pertaining to the purpose for these disbursements and verification as an operating expense.

CCC did not submit a response to the Interim Audit Report. In response to the Draft Final Audit Report, CCC stated it has made improvements to its recordkeeping procedures. Absent further documentation as recommended, the Audit staff considered the documentation provided to be insufficient.

The Commission approved a finding that CCC did not provide the necessary records or information upon which the reported operating expenditures totaling \$357,998 may be verified or explained.



**B. Interim Audit Report & Audit Division Recommendation**

At the exit conference, the Audit staff presented a schedule of the disbursements for which further records were necessary to verify the accuracy of CCC's reporting (with the discussion of independent expenditures at Finding 1 above). The CCC representative did not provide any comments.

The Interim Audit Report recommended that CCC provide the necessary information from which the reported operating expenditures totaling \$357,998 may be verified or explained. Such records should have included copies of communications, invoices with the corresponding communications and, where applicable, CCC's payment information.

**C. Committee Response to Interim Audit Report**

CCC did not submit a response to the Interim Audit Report. Absent further documentation as recommended, the Audit staff considered the documentation provided to be insufficient.

**D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that CCC did not provide the necessary information from which the reported operating expenditures totaling \$357,998 may be verified or explained.

**E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, CCC stated it has made improvements to its recordkeeping procedures. It stated some of the transactions noted in this finding as communications or electioneering totaling \$8,926 were in fact travel for consultants. However, CCC did not identify which transactions made up the \$8,926 nor provide supporting documentation for them. CCC also provided seven vendor invoices totaling \$172,493, and stated these invoices were for fundraising commissions, not for communications. The seven invoices were the same ones provided to the Audit staff during audit fieldwork and they provided no new information. Lastly, CCC provided six invoices totaling \$23,200 to demonstrate the expenses were for strategic consulting and fundraising consulting, not for media or communications. However, these invoices that now note the purpose as consulting were originally provided during audit fieldwork with purposes indicating communications, such as "TV ad campaign".

CCC did not provide the associated communications with any of the invoices and did not address the remaining expenditures totaling \$153,379 (\$357,998 - \$8,926 - \$172,493 - \$23,200) that had insufficient documentation.

**Commission Conclusion**

On October 24, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CCC did not provide the necessary records or information upon which the reported operating expenditures totaling \$357,998 may be verified or explained.

The Commission approved the Audit staff's recommendation.

1804444081

1 **FEDERAL ELECTION COMMISSION**  
2 **FACTUAL AND LEGAL ANALYSIS**  
3

4 RESPONDENTS: Conservative Campaign Committee and  
5 Kelly Lawler in her official capacity  
6 as treasurer

AR 17-03

7 **I. INTRODUCTION**  
8

9 This matter arises from the Commission's audit of the 2012 election cycle activity of the  
10 Conservative Campaign Committee and Kelly Lawler in her official capacity as treasurer (the  
11 "Committee").<sup>1</sup> On October 24, 2016, the Commission approved the Final Audit Report and the  
12 Audit Division referred one finding to the Office of General Counsel ("OGC") for possible  
13 enforcement action: the Committee's failure to file 24-Hour and 48-Hour Reports for  
14 independent expenditures ("IEs") totaling \$286,286. For the reasons that follow, and based on  
15 the facts, analysis, and findings set forth in the Final Audit Report, which is herein incorporated  
16 by reference, the Commission finds reason to believe that the Committee violated 52 U.S.C.  
17 § 30104(b)(4)(H)(iii) and (g) by failing to file 24-Hour and 48-Hour Reports of independent  
18 expenditures.

19 **II. FACTUAL AND LEGAL ANALYSIS**

20 **A. Reporting of Independent Expenditures**

21 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee  
22 treasurers to file reports of disbursements in accordance with the provisions of 52 U.S.C.  
23 § 30104(b).<sup>2</sup> This requirement includes reporting independent expenditures ("IEs") made by  
24 political committees other than authorized committees.<sup>3</sup> Every political committee that makes  
25 IEs must report them in its regularly scheduled disclosure reports in accordance with 11 C.F.R.

<sup>1</sup> See Attach. 1, Final Audit Report.

<sup>2</sup> 52 U.S.C. § 30104(a)(1).

<sup>3</sup> 52 U.S.C. § 30104(b)(4)(H)(iii), *see also* 11 C.F.R. §§ 100.16(a), 100.22, 104.3(b)(1)(vii).

1 § 104.3(b)(3)(vii).<sup>4</sup> In addition, political committees that make IEs aggregating \$1,000 or more  
2 with respect to a given election after the 20th day, but more than 24 hours before the date of that  
3 election, must disclose them within 24 hours following the date of dissemination.<sup>5</sup> These  
4 reports, known as 24-Hour Reports, must be filed within 24 hours after each time it makes or  
5 contracts to make IEs aggregating an additional \$1,000.<sup>6</sup>

6 A political committee that makes or contracts to make IEs aggregating \$10,000 or more  
7 for an election in any calendar year, up to and including the 20th day before an election, must  
8 report these expenditures within 48 hours.<sup>7</sup> These reports, known as 48-Hour Reports, must be  
9 filed by the end of the second day “following the date on which a communication that constitutes  
10 an independent expenditure is publicly distributed or otherwise publicly disseminated.”<sup>8</sup>

11 During the 2012 election cycle, the Committee disclosed \$1,339,170 as IEs on its reports,  
12 but failed to file 24-Hour or 48-Hour Reports for \$12,302 of those IEs in a timely manner and  
13 did not file any reports for IEs totaling \$3,774.<sup>9</sup> The Committee also reported \$294,036 of  
14 apparent IEs as operating expenditures or other disbursements on its quarterly reports, but failed  
15 to file 24-Hour or 48-Hour Reports for \$270,210.<sup>10</sup> The apparent IEs reviewed by the Audit

<sup>4</sup> 11 C.F.R. § 104.4(a). Such a political committee must disclose on Schedule E the name of any person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an IE by the reporting committee. The report also must disclose the date, amount, and purpose of any such IE and include a statement that indicates whether such IE is in support of or in opposition to a candidate, as well as the name and office sought by such candidate. IEs of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures on line (b) of Schedule E. *Id.*, see also 11 C.F.R. § 104.3(b)(3)(vii).

<sup>5</sup> 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c).

<sup>6</sup> 11 C.F.R. § 104.4(c).

<sup>7</sup> 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

<sup>8</sup> 11 C.F.R. § 104.4(b)(2).

<sup>9</sup> Attach. 1, Final Audit Report at 9.

<sup>10</sup> *Id.*

1 Division were for television and radio advertisements and fundraising blast emails that contained  
2 language expressly advocating the election or defeat of a clearly identified federal candidate.  
3 The television and radio advertisements included statements such as “Defeat Obama Tele-thon,”  
4 “Defeat Obama Radio-thon,” and “Rebuild America, Defeat Obama Tour.” The fundraising  
5 blast emails included links to the television and radio advertisements and express advocacy  
6 phrases in the text of the emails such as “Defeat Barack Obama” and “We’re going to stop  
7 Barack Obama from getting Wisconsin’s 10 Electoral Votes.”<sup>11</sup>

8 The Interim Audit Report recommended that the Committee provide documentation to  
9 show that the 24-Hour or 48-Hour Reports for the \$270,210 in apparent IEs were timely filed or  
10 not required.<sup>12</sup> The Committee did not submit a response to the Interim Audit Report. In  
11 response to the Draft Final Audit Report, the Committee stated that many of the communications  
12 that the Audit Division reviewed and identified as apparent IEs were actually fundraising  
13 communications that were not reportable as IEs, but the Audit Division concluded that the  
14 Committee did not support this assertion.<sup>13</sup>

15 The Commission approved a finding that the Committee did not file 24-Hour or 48-Hour  
16 Reports for \$3,774 in apparent IEs and \$270,210 in IEs that were reported as operating  
17 expenditures or other disbursements, and untimely filed 24-Hour or 48-Hour Reports for \$12,302  
18 in IEs reported on Schedule E.<sup>14</sup> The Audit Division referred these findings to OGC for possible  
19 enforcement action.

---

<sup>11</sup> *Id.* at 7.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 8.

<sup>14</sup> *Id.*

1 In its Response to the Notice of Referral,<sup>15</sup> the Committee asserted that the total IEs the  
2 Committee failed to disclose in 24-Hour or 48-Hour Reports is actually \$71,441.80.<sup>16</sup> The  
3 Committee also contends that two of its communications did not trigger the reporting  
4 requirement because they were less than the \$1,000 threshold.<sup>17</sup> The Committee also suggests  
5 that any reporting issue is *de minimis* because the approximately \$11,197 in IEs reported on 24-  
6 Hour Reports were filed between two and six days late and suggests, but does not describe,  
7 remedial measures were put in place to prevent future violations.<sup>18</sup> The Committee reiterated its  
8 argument that the bulk of the communications identified in the Final Audit Report were not  
9 “public communications” but were instead fundraising solicitations sent to its prior donors.<sup>19</sup>  
10 However, a review of these communications confirms that they should have been reported as  
11 independent expenditures. Accordingly, the Commission finds reason to believe that the  
12 Committee violated 52 U.S.C. § 30104(b)(4)(H)(iii) and (g) by failing to file 24-Hour and 48-  
13 Hour Reports for \$286,286 (\$3,744 + \$12,302 + \$270,210) in IEs.

---

<sup>15</sup> Notice of Referral, AR 17-03 (Feb. 23, 2017).

<sup>16</sup> See Conservative Campaign Committee Resp. at 2 (May 22, 2017).

<sup>17</sup> *Id.* at 2-3. A review of the documents provided by the Committee supports the Audit Division finding that these expenditures triggered the 24-Hour or 48-Hour reporting requirement.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 1-2. The Committee also argued that many its unreported expenditures were in support of Wisconsin Governor Scott Walker’s recall, and thus did not require reporting. However, as discussed in the Final Audit Report, those communications contained language expressly advocating the defeat of President Barack Obama in the text of the fundraising blast emails.